

### **REMARKS/ARGUMENTS**

The Office Action dated October 1, 2009 and the references cited by the Examiner have been given careful consideration. Following such consideration, claims 1, 12 and 13 have been amended to define more clearly the patentable invention applicant believes is disclosed herein. Claim 11 has been cancelled by the present amendment. Claim 4 was previously cancelled. Claims 2, 3 and 5-10 are unchanged by the present amendment. It is respectfully requested that the Examiner reconsider the claims in their present form, together with the following comments, and allow the application. Please note that this Response accompanies a *Request for Continued Examination (RCE)*.

The present Office Action, dated October 1, 2009, states that the drawings, filed July 27, 2009, have not been entered. Therefore, it is the Applicant's understanding that the original drawings are pending in the present application.

The Examiner has objected to the drawings under 37 CFR 1.83(a) for failing to show every feature of the invention specified in the claims. In particular, the Examiner states that "the inside of the casing (claim 1), a casing wall (claim 11) and a component to be cooled (claim 11) must be shown or the feature(s) canceled from the claims(s)." Claim 11 has been deleted. Regarding the "inside of the casing (claim 1)," the paragraph beginning on page 4, line 27 of the specification identifies "interior 8 of the casing." Therefore, claims 1, 12, and 13 have been amended to define "interior 8," as supported by the original specification and original drawings. It is respectfully requested that the Examiner now withdraw the objection to the drawings.

The Examiner has objected to the amendment to the specification, filed July 27, 2009, under 35 U.S.C. 132(a) for introducing new matter. The previously added phrase "[a]nother casing wall 10 runs on the side opposite recess 2. A component 11 to be cooled is arranged on casing wall 10" has been deleted from the specification in the present Response. The amendment to the specification to define "interior 8" corrects a typographical error in the original specification. Support for "interior 8" may be found in the paragraph beginning on page 4, line 27 of the specification. It is respectfully requested that the Examiner now withdraw the objection to the specification.

The Examiner has rejected claim 13 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. Claim 13 has been amended to delete the phrase “wherein a direct supply of air can be achieved over a short path from one casing wall (1) to an opposite casing wall (10) whereon a component (11) to be cooled is disposed.” Accordingly, it is respectfully requested that the Examiner now withdraw the 35 U.S.C. 112, second paragraph rejection.

As the Examiner knows, the present invention relates to a housing of an electrical apparatus. A recess is formed in at least one wall of the housing. The recess extends toward an interior of the housing and includes at least one ventilation hole extending through a bottom of the recess. A cover is *detachably affixed* to a portion of the wall that forms the bottom of the recess. The cover is dimensioned to form a gap between the peripheral edge of the cover and the edge of the recess.

During operation of the present invention, air is drawn through the gap between the cover and the recess. The air is then drawn into the housing through the ventilation hole in the recess. In this respect, the air flows along a convoluted path such that dirt and debris cannot easily pass into the housing. The cover also acts as a sound barrier to hinder the conveyance of sound from the housing to the surrounding environment. According to the present invention, the cover is *detachable affixed* to the recess. As a result, a user is able to easily remove the cover and clean the ventilation hole in the recess. The present invention, thus, provides an apparatus that reduces the transmission of noise, hinders the passage of dirt and debris into an electrical apparatus and allows easy access to a ventilation hole for routine cleaning.

According to another embodiment of the present invention, the cover is spaced from the casing wall and has a circumference that is larger than the circumference of the recess. See the paragraph beginning on page 2, line 24 of the specification. As a result, an annular gap is formed between the cover and the casing wall. The cover is spaced sufficiently far from the casing wall to ensure that the required air flow can be achieved through the annular gap. Claim 13 has been amended to define a cover that is “detachably affixed to a portion of said casing wall (1) forming a bottom of the recess (2) wherein said cover (4) is spaced from said casing wall (1) to define an annular gap running therebetween.”

It is respectfully submitted that none of the cited references teaches, suggests or shows the present invention as defined in the claims or the advantages thereof.

The Examiner has rejected claims 1-3, 5-8, 10 and 12-13 under 35 U.S.C. 103(a), as being unpatentable over Huang et al. (US 2002/0141154) in view of Alba (US 6,267,422). Huang et al. discloses a movable mechanism for use with an electrical apparatus. In particular, Huang et al. discloses a movable mechanism 22 that is *pivotal* connected to a systemic host 21. The Examiner acknowledges that Huang et al. does not teach a "cover detachably affixed." Therefore the Examiner relies on Alba to teach a "detachable fixing means (18)." Alba discloses a side mount hoist ring. The hoist ring includes a mounting member (18), i.e., a bolt, for attaching the side mount hoist ring to an object to be lifted. The Examiner appears to suggest that it would be obvious to replace the *pivotal connecting means*, disclosed in Huang et al. with the *detachable fixing means*, disclosed in Alba. It is respectfully submitted that the Examiner provides no apparent reason why one of ordinary skill in the art would replace a pivotal connecting means on an electrical apparatus with a detachable fixing means from a side mount hoist ring.

As the Examiner is aware, the U.S. Supreme Court decision in *KSR International Co. v. Teleflex Inc.* (2007), 82 U.S.P.Q.2d 1385 has formed the basis of the USPTO Examination Guidelines published October 10, 2007 (Federal Register/Vol. 72, No. 195). As the United States Supreme Court has made clear in *KSR*, slip op. at 14:

Often, it will be necessary ... to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an **apparent reason** to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis **should be made explicit**.  
(Emphasis added.)

The Supreme Court in *KSR* noted that "it can be important to identify a reason that would have prompted a person of ordinary skill in the art to combine the elements as the new invention does." (82 U.S.P.Q. 2d at 1389) In *PharmaStem Therapeutics, Inc. v. Viacell, Inc.*, (Fed. Cir. 2007) 491 F.3d at 1364, 83 U.S.P.Q.2d (BNA) at 1304-05 (quoting *O'Farrell*, 853 F.2d at 903, 7 U.S.P.Q.2d (BNA) at 1681), and the majority noted:

On the other hand, the court explained, an invention would not be invalid for obviousness if the inventor would have been motivated "to vary all parameters or try each of numerous possible choices

until one possibly arrived at a successful result, where the prior art gave either no indication of which parameters were critical or no direction as to which of many possible choices is likely to be successful.” *Likewise, an invention would not be deemed obvious if all that was suggested “was to explore a new technology or general approach that seemed to be a promising field of experimentation, where the prior art gave only general guidance as to the particular form of the claimed invention or how to achieve it.”* (Emphasis added.)

It is respectfully submitted that the Examiner provides no “*apparent reason* to combine the known elements in the fashion claimed by the patent at issue” (see *KSR, supra*). The Examiner does not provide an apparent reason why one skilled in the art would combine a side mount hoist ring for lifting an object with an electrical apparatus. It appears that the Examiner combines Alba and Huang et al. based solely on hindsight view of the present invention. As neither Alba nor Huang et al. discloses a detachable cover, it is clear that the impetus for the Examiner’s modification of the references to include a detachable cover comes from Applicant’s disclosure.

Moreover, the Examiner takes the position that:

“[i]t would have been obvious to one of ordinary skill in the art to substitute *fixing means, as taught by Alba, for those of Huang*, since the results of substituting one known fixing means for another would have been predictable; thereby providing the structure substantially as claimed.” See Office Action, page 4. (Emphasis added).

Applicant disagrees. The Manual of Patent Examining Procedure (MPEP) §2143.01(V) states that:

“[i]f the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.”

Huang et al. teaches a movable mechanism 22 that is *pivotally* connected to a systemic host 21. In particular, Huang et al. discloses that mechanism 22 is pivotally connected so as to allow access to heat-dissipating devices, *without disassembling* systemic host 21. If the apparatus in Huang et al. included a detachable fixing means instead of a pivotally means, as suggested by the Examiner, then access to the heat-dissipating devices would be possible only by

disassembling systemic host 21. Therefore, to replace the pivotal means disclosed in Huang et al. with a detachable fixing means would be contrary to the explicit teachings of Huang et al. In other words, the Examiner's purposed modification would render Huang et al. unsatisfactory for its intended purpose. Therefore, there is no suggestion or motivation to make the modification purposed by the Examiner.

It is respectfully submitted that neither Huang et al. nor Alba, taken alone or combined, teaches, suggests or shows a cover "detachably affixed," as defined in claims 1, 12 and 13. Moreover, neither Huang et al. nor Alba, taken alone or combined, teaches, suggests or shows a cover spaced apart from a casing wall to define an annular gap running therebetween, as defined in claim 13. Therefore, the Examiner is respectfully requested to withdraw the obviousness rejection under 35 U.S.C. 103.

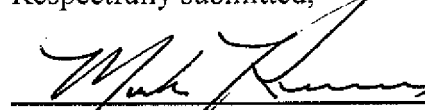
The remaining claims depend from claim 1 and are allowable for at least the same reasons as stated above for claim 1.

In view of the foregoing comments, it is respectfully submitted that the present application is now in proper condition for allowance. If the Examiner believes there are any further matters that need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.

If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0537, referencing our Docket No. BE9139PCT(US).

Date: **January 29, 2010**

Respectfully submitted,



Mark Kusner

Registration No. 31,115

Kusner & Jaffe  
Highland Place – Suite 310  
6151 Wilson Mills Road  
Highland Heights, Ohio 44143  
(440) 684-1090 (phone)  
(440) 684-1095 (fax)

MK/CAJ/lc